

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MIGUEL E. GARCIA.,

Plaintiff,

v.

CAPT. SANCHEZ and
JOHN DOE

Defendants.

OPINION AND ORDER

20-cv-135-slc

Pro se plaintiff Miguel Garcia is proceeding in this lawsuit pursuant to 42 U.S.C. § 1983, on Eighth Amendment failure to protect claims against defendants Nicholas Sanchez and John Doe, for their alleged failure to prevent another inmate from attacking him on November 9, 2019. Garcia has not yet amended his complaint to identify the Doe defendant. On January 29, 2021, defendant Sanchez filed a motion for partial summary judgment on the ground that Garcia failed to exhaust his administrative remedies. (Dkt. 21.) Sanchez argues that summary judgment is appropriate because the only inmate complaint Garcia filed related to the November 9, 2019 assault was untimely, having been submitted in October of 2020. At the March 4, 2021, preliminary pretrial conference, I explained to Garcia how he should respond to defendant's motion and set April 2, 2021, as Garcia's opposition deadline. On March 15, 2021, Garcia filed a brief in opposition to Sanchez's motion, in which he attests to the reasons why he was unable to file a timely inmate complaint. (Dkt. 32.) However, a week later, Garcia also filed a motion for an extension of time, representing that he was receiving the help of another inmate, who needed more time to respond. (Dkt. 33.) I granted that request, extending his opposition deadline to May 5, 2021.

That deadline has passed. Garcia has not followed up with an opposition, and

Sanchez has not filed a reply brief. It is possible that Garcia intends to stand on his March 15, 2021, submission. To remove any doubt, I will give Garcia one additional week to file the opposition he intended to file when he asked for more time, and give defendant Sanchez one week to submit a reply. At that point, I will take defendant's motion under advisement.

ORDER

IT IS ORDERED that plaintiff Miguel Garcia may have **May 24, 2021**, to file a response to defendant's motion for summary judgment. Any reply is due **June 1, 2021**.

Entered this 17th day of May, 2021.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge